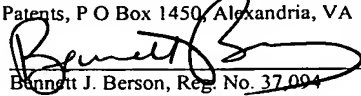
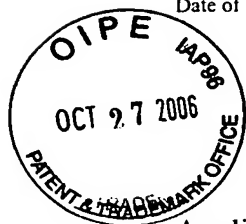


I hereby certify that this correspondence is being deposited with the United States Postal Service on the date set forth below as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450.

Date of Signature and Deposit: October 25, 2006


Bennett J. Berson, Reg. No. 37,004



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: James M. Ntambi, *et al.*

Date: October 25, 2006

Serial No.: 10/620,404

Art Unit: 1616

Filing Date: July 16, 2003

Examiner: Nathan W. Schlientz

Title: METHOD FOR INCREASING INSULIN
AND FOR TREATING AND PREVENTING
TYPE 2 DIABETES

File No.: 960296.99128

Confirmation No.: 2922

RESPONSE TO REQUIREMENT FOR RESTRICTION

Mail Stop Amendment
Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In a non-final Office Action mailed August 25, 2006, the Examiner in charge of the above-identified application divided the claims into two (2) groups and required restriction to one of the groups. In addition, the Examiner required an election of species should Applicant elect to prosecute Group I.

In response to this requirement, Applicants provisionally elect Group I (Claims 1-11), with traverse and without prejudice to the eventual filing of a divisional application on restriction Group II. Because the Applicants elect Group I, they likewise provisionally elect the following species: thiazoladinedione derivatives, upon which Claims 1-5 read.

The requirement, however, is respectfully traversed on the grounds that Group II is related to Group I. MPEP § 806.06 requires the Examiner to demonstrate two requirements - (1) that the inventions are not disclosed as capable of use together and (2) that the inventions have different designs, modes of operation, and effects. With respect to the first requirement, Applicants note that Group I and Group II are capable of use together. Specifically, Applicants note that paragraphs [0008] to [0009] of the above-identified application disclose how Group II is capable of use with Group I. That is, the method of Group II is used to identify compounds for use in the methods of Group I. Applicants note that the Examiner even stated that Group I and Group II are related in this respect. *See* p. 3, lines 1-3 of the Office Action.

With respect to the second requirement, Applicants note that Group II has a similar effect as Group I. That is, the end effect of Group I or Group II is an increase in insulin sensitivity via compounds that decrease SCD1 activity. As such, Applicants submit that Group I and Group II are disclosed as capable of use together and have similar effects. Therefore, the Examiner has failed to show that the two requirements set forth in MPEP § 806.06 are satisfied.

The requirement is also respectfully traversed on the grounds that restriction is optional in all cases. MPEP § 803. If a search and examination of a set of claims can be made without serious burden, the Examiner must examine them on the merits, even though they may arguably be directed at distinct or independent inventions. MPEP § 803. Applicants respectfully submit that Groups I and II are directed at highly related subject matter and thus can be examined together without serious burden. On the contrary, it will be unnecessarily burdensome on both Applicants and the Office to consider the highly related subject matter in several separate patent applications.


Reconsideration of the requirement for restriction is respectfully requested.

Fees

A petition for a one-month extension of time accompanies this response so that it will be deemed to have been timely filed.

No other extension of time is believed due, but should any additional extension be due, in this or any subsequent response, please consider this to be a petition for the appropriate extension and a request to charge the extension fee to Deposit Account No. 17-0055. No additional fees are believed due; however, if any fees are due, in this or any subsequent response, please charge Deposit Account 17-0055.

Respectfully submitted,



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